

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2014 7689
Issue No.: 2009; 4009
Case No.: ██████████
Hearing Date: February 26, 2014
County: Wayne County 15

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 26, 2014 from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Medical Contact Worker.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) benefit programs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing MA-P and SDA recipient based on a July 23, 2012 application and finding of eligibility finding that Claimant was disabled.
2. On October 7, 2013, the Department reviewed Claimant's ongoing MA-P and/SDA eligibility. It was unclear from the Department's presentation whether the Claimant was receiving both SDA and MA-P.
3. On October 8, 2013, the MRT found Claimant no longer disabled.

4. On October 10, 2013, the Department sent Claimant a Notice of Case Action closing his MA-P and SDA cases.
5. On October 17, 2013, the Department received Claimant's timely written request for hearing.
6. On December 5, 2013, the State Hearing Review Team (SHRT) found Claimant not disabled.
7. Claimant alleged mental disabling impairments due to Major Depressive disorder, severe with psychosis, anxiety disorder and psycholic disorder with hallucinations.
8. The Claimant has alleged physical disabling impairments including hepatitis C, carpal tunnel syndrome, gout, hypertension and asthma
9. At the time of hearing, Claimant was 56 years old, with an [REDACTED] birth date.
10. At the time of hearing, Claimant was 5'7" in height, and weighed approximately 173 pounds.
11. Claimant has a high school education and has an employment history of working as a janitor for a janitorial service.
12. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Bridges Reference Tables (RFT).

A disabled individual is eligible for MA-P and SDA. BEM 105 (January 2014), p. 1; BEM 260 (July 2013), p. 1; BEM 261 (July 2013), p. 1. In order to receive MA benefits based upon disability or blindness, Claimant must be disabled or blind as defined in Title XVI of the Social Security Act. 20 CFR 416.901. Disability is defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a).

Once an individual has been found disabled for purposes of MA benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994(a). In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process to assess current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work. The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5). Prior to deciding an individual's disability has ended, the Department will develop, along with Claimant's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The Department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

Step One

The first step in the analysis in determining whether an individual's disability has ended requires the trier of fact to consider the severity of the impairment(s) and whether it meets or equals a listed impairment in Appendix 1 of subpart P of part 404 of Chapter 20. 20 CFR 416.994(b)(5)(i). If a Listing is met, an individual's disability is found to continue with no further analysis required.

In the present case, Claimant alleges a disability due to major depression severe with psychosis, anxiety disorder and psychologic disorder with hallucinations.

The Claimant has alleged physical disabling impairments including hepatitis C, carpal tunnel syndrome, gout, hypertension and asthma

A follow-up progress note was completed on February 21, 2014 by Claimant's doctor. The medical problem listed hallux valgus, carpal tunnel syndrome, unspecified viral hepatitis C without hepatic coma, esophageal reflux -GERD, low back pain depressive disorder and psychosexual dysfunction.

The Claimant was given a medication review on February 24, 2014. At the time, a new onset of psychosis auditory, visual tactile since he was last seen was noted, mood instability as well as poor sleep, chronic pain also noted severe mood swings, snapping at people and unable to feel calm and relaxed, low energy appetite, too little or too much, feelings of guilt, and hearing voices and seeing people still persist. The diagnosis was major depressive disorder recurrent severe with psychosis, anxiety disorder and psychologic disorder with hallucinations the GAF score was 50.

A medical examination report was completed on August 23, 2013 by a family practice doctor. At the time, the diagnosis was hepatitis C, carpal tunnel syndrome, Gout hypertension and asthma. Right knee swollen with weakness in some digits of the right hand. The Claimant was deteriorating and was limited due to his right hand. The Claimant could lift no more than 10 pounds, occasionally he could stand or walk less than eight hours in an eight-hour workday and could only perform simple grasping, reaching, pushing/pulling, and fine manipulating with his right hand. The medical findings that supported the limitations noted strength in right hand is three out of five limited and the patient is right hand dominant. Further limitations were noted with regard to mental limitations including manic depression. The doctor found that the Claimant could not meet his needs in the home needing assistance with dressing, laundry, shopping, meal preparation, mobility and eating.

On August 23, 2013, a Mental Residual Functional Capacity of Assessment was performed by the Claimant's psychiatrist. The Claimant was markedly limited in several categories. The Claimant was markedly limited in his ability to work in coordination with or proximity to others without being distracted by them, and his ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without unreasonable number and length of rest periods. The Claimant was markedly limited in his ability to interact appropriately with the general public, ability to accept instructions and respond appropriately to criticism of supervisors. The Claimant's adaptation abilities were all markedly limited including the ability to respond appropriately to changes in the work setting, ability to be aware of normal hazards and take appropriate precautions ability to travel in unfamiliar places or use public transportation, and to make plans independently of others. With respect to understanding and memory as well as sustained concentration and persistence, the Claimant was moderately limited in all categories which meant the Claimant's ability was impaired. These abilities included understanding and remembering one or two-step instructions, remembering detailed instructions, ability to

2014-7689/LMF

carry out simple one and two-step instructions or carry out detailed instructions and maintaining attention and concentration for extended periods.

A psychiatric examination report also completed on August 23, 2013 by the Claimant's psychiatrist. At the time of the exam, the Claimant was neatly dressed and had appropriate affect and good hygiene at the time of the exam the Claimant was meeting with the therapist every two weeks and the psychiatrist once a month. His long term and short term memory was intact. Intellectual functioning was average, and judgment and insight were rated as fair. There were no current suicidal or homicidal ideations. The diagnosis was major depressive disorder, anxiety disorder, cannabis abuse in remission, and alcohol abuse in full remission. The GAF score was 50.

Listing 12.04 was also examined in light of the Claimant's diagnosis for Major Depressive Disorder, recurrent severe with psychosis. The listing provides:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or

2014-7689/LMF

1. Hallucinations, delusions, or paranoid thinking; or
2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking; or ...

AND

- B. Resulting in at least two of the following:
 1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration.

A review of the Claimant's medical evidence provided by psychiatric evaluations from the Claimant's treating psychiatrist summarized above was reviewed to determine whether listing 12.04, affective disorders has been demonstrated. Particular weight was given to both the Mental Residual Functional Capacity Assessment performed and several prior examinations summarized above and the last evaluation completed February 24, 2014. The Claimant has treated consistently with little improvement. Without question, the Mental Residual Functional Capacity Assessment establishes that the Claimant has severe marked limitations in abilities necessary to sustain gainful

employment. With respect to Listing 12.04, A., depressive syndrome which requires meeting for at least four medically documented and persistent symptoms, which in Claimant's case include, difficulty concentrating or thinking, decreased energy, thoughts of suicide, sleep disturbance and anhedonia with pervasive loss of interest, feelings of guilt and worthlessness and thoughts of suicide. Therefor 12.04 A is satisfied.

Listing 12.04 also requires that functional capacities for daily living and social functioning, concentration persistence and pace or decompensation, at least two of which categories must be demonstrated. In the Claimant's case, the Mental Residual Functional Capacity Assessment demonstrates marked limitations in sustained concentration persistence and pace, understanding and memory, social interaction, and adaptation the specifics of which are fully outlined above.

Based on the evaluation of Claimant's treating psychiatrist, it is determined that deference must be given to this evaluation, as the Claimant has been seen for some time. The evaluations and medical opinions of a "treating physician is "controlling" if it is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record. 20 CFR§ 404.1527(d)(2), Deference was given by the undersigned to objective medical testing and clinical observations of the Claimant's treating physician, including the February 24, 2014 evaluation. Based upon the foregoing, it is determined that the Claimant is disabled at Step 1 with no further analysis required.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant disabled for purposes of the MA-P and SDA benefit programs.

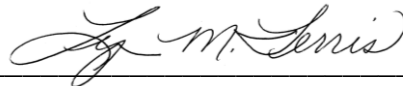
Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Review and reprocess the October 7, 2013 review application to determine if all other non-medical criteria are met and notify Claimant of its decision in writing;
2. Issue supplements to Claimant for any lost MA-P and SDA benefits as applicable that he was entitled to receive from closure ongoing if otherwise eligible and qualified in accordance with Department policy; and

2014-7689/LMF

3. Review Claimant's continued MA-P and SDA eligibility in June 2015 in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 13, 2014

Date Mailed: June 13, 2014

NOTICE OF APPEAL: The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-7689/LMF

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

LMF/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]